

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT LEE BUTLER,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 41712

FILED

MAR 25 2004

ORDER OF AFFIRMANCE

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richard*
CHIEF DEPUTY CLERK

This is a proper person appeal from an order of the district court denying a post-conviction petition for a writ of habeas corpus. We have reviewed the record on appeal and conclude for the reasons stated in the attached order that the district court did not err in declining to review appellant's petition. Therefore, briefing and oral argument are not warranted in this case.¹

Finally, we note that NRS 34.738(2)(b) requires the district court to transfer a petition that is filed in the wrong district court to the appropriate district court. Therefore, we direct the clerk of the district court to transfer appellant's petition to the clerk of the Second Judicial District Court if the clerk has not already done so. Accordingly, we

ORDER the judgment of the district court AFFIRMED.

Becker _____, J.
Becker

Agosti _____, J.
Agosti

Gibbons _____, J.
Gibbons

¹See Luckett v. Warden, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975).

cc: Hon. Joseph T. Bonaventure, District Judge
Robert Lee Butler
Attorney General Brian Sandoval/Carson City
Clark County District Attorney David J. Roger
Clark County Clerk

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ORDR
DAVID ROGER
Clark County District Attorney
Nevada Bar #002781
THOMAS M. CARROLL
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Nevada Bar #004232
200 South Third Street
Las Vegas, Nevada 89155-2211
(702) 455-4711
Attorney for Plaintiff

FILED
AUG 14 1 26 PM '03
Shirley A. Pangione
CLERK

41712

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

ROBERT LEE BUTLER,
#1517309

Defendant.

CASE NO: C183454
DEPT NO: VI

FILED

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER**

AUG 21 2003
JANETTE M. BLOOM
CLERK OF SUPREME COURT

DATE OF HEARING: 6/27/02
TIME OF HEARING: 8:30 A.M.

THIS CAUSE having come on for hearing before the Honorable JOSEPH T. BONAVENTURE, District Judge, on the 27th day of June, 2002, the Petitioner not being present, Proceeding in Forma Pauperis, the Respondent being represented by DAVID ROGER, District Attorney, by and through THOMAS M. CARROLL, Chief Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. On April 30, 2002, Robert Lee Butler, hereinafter Defendant, filed a Petition for Writ of Habeas Corpus in the Eighth Judicial District challenging the constitutionality of the Nevada burglary statute as well as a Motion to Proceed In Forma Pauperis.

COUNTY CLERK
AUG 14 2003

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CLERK OF SUPREME COURT
By _____
DEPUTY CLERK

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03-14151

- 1 2. The District Court granted the Motion to Proceed in Forma Pauperis and Denied the
2 Petition for the Writ of Habeas Corpus.
- 3 3. On February 6, 2003, the Defendant filed a Motion for an Order for Contempt of
4 Court. It appears from the Defendant's police report, which was included with his
5 Motion, that the underlying arrest and conviction occurred in Reno, Nevada.
- 6 4. The Order denying this Motion was filed on February 24, 2003.
- 7 5. The Defendant filed a Notice of Appeal from the Order denying the Petition for Writ
8 of Habeas Corpus on July 2, 2003.

9 **CONCLUSIONS OF LAW**

- 10 1. The Eighth Judicial District Court, located in Clark County, does not have jurisdiction
11 because the underlying crime occurred in Washoe County. Per NRS 34.738(1) "A petition
12 that challenges the validity of a conviction or sentence must be filed with the clerk of the
13 district court for the county in which the conviction occurred."

14 **ORDER**

15 Based upon the Findings of Fact and Conclusions of Law contained herein, it is
16 hereby:

17 ORDERED, ADJUDGED, and DECREED that Defendant's Petition for Writ of
18 Habeas Corpus (Post-Conviction) is denied.

19 DATED this 12th day of August, 2003.

20 
21 _____
DISTRICT JUDGE

22 DAVID ROGER
23 DISTRICT ATTORNEY
24 Nevada Bar #002781

Thomas M. Carroll

25 BY _____

26 THOMAS M. CARROLL
27 Chief Deputy District Attorney
28 Nevada Bar #004232

ct

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TELEPHONE ROOM
CLERK

AUG 18 '03

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